Remarks

Reconsideration of the above-captioned application is respectfully requested.

Claims 1-3 have been rejected under 35 U.S.C. §102 as being anticipated by Schwenk (USPN 6,222,923), and Claims 4-30 have been rejected under 35 U.S.C. §103 as being obvious over Schwenk in view of Yoshida et al. (IEEE).

To address the examiner's comment that "candidate" traitor receivers should be recited in Claims 1, 13, and 22, Applicant has amended these claims to do so, it being understood that the amendment is not substantive in that the distinction is without a difference.

With respect to the comment that the exhibit supporting the declaration fails to disclose limitations in some dependent claims (namely, Claims 8-11, 18, 19, and 28), Applicant does not agree (for instance, subsets having keys is disclosed in the second bullet on the third page of the exhibit). Of more fundamental importance, however, is the fact that the examiner has agreed that the limitations of the underlying independent claims have been shown to predate Yoshida et al., and these limitations are perforce incorporated into the dependent claims. Accordingly, even if one particular element of a dependent claim may or may not have been shown to predate Yoshida et al., the independent claim elements that are incorporated into the dependent claim render the dependent claim patentable. A dependent claim cannot be unpatentable if the underlying independent claim is patentable.

Rejections Under 35 U.S.C. §102

With respect to the anticipation rejections, the Office Action continues to allege that Schwenk, col. 4, lines 8-33 teaches dividing a traitor subset into child sets and removing complementary subsets because,

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per the examiner, "finding an intersection of two sets necessarily divides and removes". This allegation

continues to be logically incorrect. As pointed out previously, the relied-upon section of Schwenk does not

teach dividing a subset but only finding the intersection between two subsets. The acts of "finding" and/or

"identifying" a part of a whole are not synonyms for and do not necessarily imply "dividing" the whole or

"removing" the part from the whole. Moreover, remaining unaddressed is the limitation of Claim 3 involving

removing something that is "complementary" to something else.

      In the event that the examiner persists in insisting that finding an intersection "necessarily" means

dividing subsets when such is never mentioned in Schwenk et al., he should explain where the evidence exists

on the record that the skilled artisan would construe the term "dividing a subset" to be the same thing as

finding an intersection between sets, see MPEP §2111.01 (claims must be construed broadly during

prosecution but only as broadly as the skilled artisan would reasonably construe them).

Rejections Under 35 U.S.C. §103

      It appears that the examiner and Applicant are now in agreement that the declarations successfully

swear behind Yoshida et al., removing it as a reference at least as to the independent claims. Applicant

preserves it previous arguments regarding the lack of a suggestion to combine the references as proposed,

and Applicant's prior observations that Yoshida et al. fails to teach what the examiner alleges it teaches, as

well as Applicant's previous comment that while Applicant has focussed on the independent claims to facilitate

prosecution, Applicant's silence as to other rejections (e.g., as to dependent claim rejections) must not be

taken as acquiescence in those rejections.

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     The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason

which would advance the instant application to allowance.

                            Respectfully submitted,

                            John L. Rogitz
                            Registration No. 33,549
                            Attorney of Record
                            750 B Street, Suite 3120
                            San Diego, CA 92101
                            Telephone: (619) 338-8075

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